

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KIMBERLY M. SHELTON,

Plaintiff,

v.

CITIBANK, N.A.

Defendant.

§
§
§
§
§
§
§

CIVIL ACTION NO. 3:22-cv-00730

DEFENDANT CITIBANK, N.A.'S NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant Citibank, N.A. (“Citibank”) hereby removes the state court civil action originally numbered and styled as Case No. JS22-00041E *Kimberly M. Shelton v. Citibank, N.A.* in the Justice Court Precinct 2 Place 2 for Dallas County, Texas (the “State Court Action”), to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on federal question jurisdiction, 28 U.S.C. § 1331, and authorized by 28 U.S.C. § 1441. **This removal is made subject to and without waiver of Citi’s contractual right to compel arbitration.** As grounds for this removal, Citibank respectfully states the following:

I. STATEMENT OF THE STATE COURT ACTION

1. On or about February 8, 2022, Kimberly M. Shelton (“Plaintiff”) filed the State Court Action against Citibank. A true and correct copy of Plaintiff’s Original Petition in the State Court Action (“Petition” or “Pet.”) is included in the appendix attached hereto as **Exhibit B-1**.

2. On or about March 1, 2022, Defendant Citibank was served with Plaintiff's Petition filed the State Court Action by personal service. A true and correct copy of the Return of Service is included in the appendix attached hereto as **Exhibit B-3**.

3. On or about March 15, 2022, Defendant Citibank timely filed an Original Answer in the State Court Action. A true and correct copy of Defendant's Original Answer in the State Court Action ("Answer") is included in the appendix attached hereto as **Exhibit B-4**.

II. TIMELINESS OF NOTICE OF REMOVAL

4. Pursuant to 28 U.S.C. § 1446(b)(1), the deadline to file this Notice of Removal is within thirty days "after receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based ..." *See City of Clarksdale v. Bell-South Telecomms., Inc.*, 428 F.3d 206, 210 (5th Cir. 2005). Accordingly, as this Notice of Removal is being filed on March 30, 2022, it is being filed within the thirty-day statutory deadline and is therefore timely. *See* 28 U.S.C. § 1446(b).

III. BASIS FOR REMOVAL – FEDERAL QUESTION JURISDICTION

5. Removal is proper because the State Court Action alleges violations of the Telephone Consumer Protection Act, 47 U.S.C. 227 *et seq.*, federal law over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331. *See* Pet. ¶¶ 55-66 (alleging violations of the Telephone Consumer Protection Act).

6. This Court also has supplemental jurisdiction over Plaintiff's state-law claims for violations of the Texas Debt Collection Act because they are part of the same case or controversy as her other claims for relief.¹

¹ *See Enochs v. Lamps Cnty.*, 641 F.3d 155, 158 (5th Cir. 2011) (discussing the power of the federal courts to exercise supplemental jurisdiction over state law claims under 28 U.S.C. § 1367(a)).

IV. THE REQUIREMENTS OF LOCAL RULE 81 FOR REMOVAL ARE SATISFIED

7. In accordance with 28 U.S.C. § 1446(a) and Rule 81.1 of the Local Rules for the United States District Court for the Northern District of Texas, an appendix with the following documents is attached to this Notice:²

Reference	Document Name
Exhibit A	Index of State Court Action Documents
Exhibit B	Documents Filed in State Court Action
Exhibit B-1	Plaintiff's Original Petition
Exhibit B-2	Citation issued to Defendant Citibank, N.A.
Exhibit B-3	Return of Service
Exhibit B-4	Defendant Citibank, N.A.'s Original Answer
Exhibit C	Certificate of Interested Persons

8. In accordance with Local Rule 81.1(a) subparts (1) and (2), Defendant is filing a completed civil cover sheet and a supplemental civil cover sheet with this Notice.

V. THE ADDITIONAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

9. Venue is proper in the United States District Court for the Northern District of Texas, Dallas Division, because this district and division includes Dallas County, Texas, the location where the State Court Action is pending. *See* 28 U.S.C. § 124(a)(1).

10. None of the exceptions to removal under 28 U.S.C. § 1445 applies here.

² The Justice Court Precinct 2 Place 2 of Dallas County does not create docket sheets for cases assigned to it and therefore one is not included with this filing. The undersigned counsel certifies that all filings made in the State Court Action are included in the attached appendix and has prepared an index of the documents given the lack of a docket sheet (*see* **Exhibit A**).

11. Defendant Citibank has complied with the requirements of 28 U.S.C. § 1446 as set forth in this Notice of Removal.

12. Pursuant to 28 U.S.C. § 1446(d), Defendant Citibank will promptly serve written notice of this Notice of Removal on Plaintiff and file the same with the Clerk of the Court for the Justice Court Precinct 2 Place 2.

13. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal is signed pursuant to Federal Rules of Civil Procedure 11.

14. By this Notice of Removal, Defendant Citibank does not waive and expressly reserves its contractual right to compel arbitration, any objections or defenses it may have as to improper service, jurisdiction, or venue, or any other defenses or objections to this action. Defendant Citibank intends no admission of fact, law, or liability by this Notice of Removal, and reserves all defenses, motions, and pleas.

WHEREFORE, having satisfied the requirements for removal, Defendant Citibank gives notice that Case No. JS22-00041E, originally filed in the Justice Court Precinct 2 Place 2 Dallas County, Texas, has been removed to this Court. Defendant Citibank further requests any additional relief to which it may be justly entitled.

DATE: March 30, 2022

Respectfully submitted,

/s/ Meagan Martin Powers

Meagan Martin Powers

State Bar No. 24050997

Katherine M. Anand

State Bar No. 24050223

M. Angelita Delgadillo

State Bar No. 24072507

MARTIN POWERS & COUNSEL, PLLC

600 E. John Carpenter Freeway, Suite 234

Irving, Texas 75062

Telephone: (214) 612-6474

Facsimile: (214) 247-1155

meagan@martinpowers.com

katie@martinpowers.com

angelita@martinpowers.com

COUNSEL FOR DEFENDANT

CITIBANK, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of March 2022, a true and correct copy of ***Defendant Citibank, N.A.'s Notice of Removal*** was served on Plaintiff in the State Court Action thru the Court's electronic filing system.

/s/ M. Angelita Delgadillo

M. Angelita Delgadillo